

**SB3330**



**99TH GENERAL ASSEMBLY**

**State of Illinois**

**2015 and 2016**

**SB3330**

Introduced 2/19/2016, by Sen. Wm. Sam McCann

**SYNOPSIS AS INTRODUCED:**

305 ILCS 5/8A-2.5

Amends the Public Assistance Fraud Article of the Illinois Public Aid Code. In a provision concerning the recovery of the monetary value of medical benefits improperly and erroneously received, provides that the records of the Department of Healthcare and Family Services regarding the improper payment of benefits are self-authenticating and presumed to be true and correct absent evidence to the contrary.

LRB099 19955 KTG 44354 b

**A BILL FOR**

1 AN ACT concerning public aid.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Aid Code is amended by  
5 changing Section 8A-2.5 as follows:

6 (305 ILCS 5/8A-2.5)

7 Sec. 8A-2.5. Unauthorized use of medical assistance.

8 (a) Any person who knowingly uses, acquires, possesses, or  
9 transfers a medical card in any manner not authorized by law or  
10 by rules and regulations of the Illinois Department, or who  
11 knowingly alters a medical card, or who knowingly uses,  
12 acquires, possesses, or transfers an altered medical card, is  
13 guilty of a violation of this Article and shall be punished as  
14 provided in Section 8A-6.

15 (b) Any person who knowingly obtains unauthorized medical  
16 benefits or causes to be obtained unauthorized medical benefits  
17 with or without use of a medical card is guilty of a violation  
18 of this Article and shall be punished as provided in Section  
19 8A-6.

20 (b-5) Any vendor that knowingly assists a person in  
21 committing a violation under subsection (a) or (b) of this  
22 Section is guilty of a violation of this Article and shall be  
23 punished as provided in Section 8A-6.

1 (b-6) Any person (including a vendor, organization,  
2 agency, or other entity) that, in any matter related to the  
3 medical assistance program, knowingly or willfully falsifies,  
4 conceals, or omits by any trick, scheme, artifice, or device a  
5 material fact, or makes any false, fictitious, or fraudulent  
6 statement or representation, or makes or uses any false writing  
7 or document, knowing the same to contain any false, fictitious,  
8 or fraudulent statement or entry in connection with the  
9 provision of health care or related services, is guilty of a  
10 violation of this Article and shall be punished as provided in  
11 Section 8A-6.

12 (c) The Department may seek to recover any and all State  
13 and federal monies for which it has improperly and erroneously  
14 paid benefits as a result of a fraudulent action and any civil  
15 penalties authorized in this Section. Pursuant to Section  
16 11-14.5 of this Code, the Department may determine the monetary  
17 value of benefits improperly and erroneously received. The  
18 records of the Department regarding the improper payment of  
19 benefits shall be self-authenticating and shall be presumed to  
20 be true and correct absent evidence to the contrary. The  
21 Department may recover the monies paid for such benefits and  
22 interest on that amount at the rate of 5% per annum for the  
23 period from which payment was made to the date upon which  
24 repayment is made to the State. Prior to the recovery of any  
25 amount paid for benefits allegedly obtained by fraudulent  
26 means, the recipient or payee of such benefits shall be

1 afforded an opportunity for a hearing after reasonable notice.  
2 The notice shall be served personally or by certified or  
3 registered mail or as otherwise provided by law upon the  
4 parties or their agents appointed to receive service of process  
5 and shall include the following:

6 (1) A statement of the time, place and nature of the  
7 hearing.

8 (2) A statement of the legal authority and jurisdiction  
9 under which the hearing is to be held.

10 (3) A reference to the particular Sections of the  
11 substantive and procedural statutes and rules involved.

12 (4) Except where a more detailed statement is otherwise  
13 provided for by law, a short and plain statement of the  
14 matters asserted, the consequences of a failure to respond,  
15 and the official file or other reference number.

16 (5) A statement of the monetary value of the benefits  
17 fraudulently received by the person accused.

18 (6) A statement that, in addition to any other  
19 penalties provided by law, a civil penalty in an amount not  
20 to exceed \$2,000 may be imposed for each fraudulent claim  
21 for benefits or payments.

22 (7) A statement providing that the determination of the  
23 monetary value may be contested by petitioning the  
24 Department for an administrative hearing within 30 days  
25 from the date of mailing the notice.

26 (8) The names and mailing addresses of the

1 administrative law judge, all parties, and all other  
2 persons to whom the agency gives notice of the hearing  
3 unless otherwise confidential by law.

4 An opportunity shall be afforded all parties to be  
5 represented by legal counsel and to respond and present  
6 evidence and argument.

7 Unless precluded by law, disposition may be made of any  
8 contested case by stipulation, agreed settlement, consent  
9 order, or default.

10 Any final order, decision, or other determination made,  
11 issued or executed by the Director under the provisions of this  
12 Article whereby any person is aggrieved shall be subject to  
13 review in accordance with the provisions of the Administrative  
14 Review Law, and the rules adopted pursuant thereto, which shall  
15 apply to and govern all proceedings for the judicial review of  
16 final administrative decisions of the Director.

17 Upon entry of a final administrative decision for repayment  
18 of any benefits obtained by fraudulent means, or for any civil  
19 penalties assessed, a lien shall attach to all property and  
20 assets of such person, firm, corporation, association, agency,  
21 institution, vendor, or other legal entity until the judgment  
22 is satisfied.

23 Within 18 months of the effective date of this amendatory  
24 Act of the 96th General Assembly, the Department of Healthcare  
25 and Family Services will report to the General Assembly on the  
26 number of fraud cases identified and pursued, and the fines

1 assessed and collected. The report will also include the  
2 Department's analysis as to the use of private sector resources  
3 to bring action, investigate, and collect monies owed.

4 (d) In subsections (a), (b), (b-5) and (b-6), "knowledge"  
5 has the meaning ascribed to that term in Section 4-5 of the  
6 Criminal Code of 2012. For any administrative action brought  
7 under subsection (c) pursuant to a violation of this Section,  
8 the Department shall define "knowing" by rule.

9 (Source: P.A. 97-23, eff. 1-1-12; 98-354, eff. 8-16-13.)